

Minutes
Nevada State Emergency Response Commission
Second Quarterly Meeting
Professional Engineer and Land Surveyor's State Board Room
1755 E. Plumb Lane, Suite 130
Reno, Nevada
April 13, 2006

Members Present

Richard Brenner, Co-Chair
Richard Mirgon, Co-Chair
Carl Byrd
L. Tom Czehowski
Larry Farr
Stacey Giomi
Verl Jarvie
Jim O'Brien
Tom Porta
B. Jim Reagan
Frank Siracusa
Doyle Sutton
Doug Webb

Members Not Present

Susan Crowley
John Helmreich
Senator Lawrence Jacobsen
Senator Dennis Nolan

Staff

Karen Kennard
Bruce Ferrel
Suzanne Adam
Glade Myler

Guests

Michael Ardito
Nathan Byrd
Joe Curtis
Chad Hastings
Brent Jones
Craig Nixon
Jeff Page

I. CALL TO ORDER

Richard Mirgon, Co-Chairman, called the meeting to order at 10:00 a.m.

II. INTRODUCTIONS

Members, staff and guests introduced themselves as shown above.

III. APPROVAL OF JANUARY 12, 2006 MEETING MINUTES

Jim Reagan made a motion to approve the minutes of the January 12, 2006 SERC First Quarterly meeting. Jim O'Brien seconded the motion which was approved unanimously.

IV. PUBLIC COMMENT

Richard Brenner advised several SERC Commission members' terms were ending. Mr. Brenner presented Mr. Mirgon with a plaque for his dedicated service. Mr. Mirgon thanked everyone for the plaque and their service to the SERC. Karen Kennard also advised Brett Skinner's term expired in February; Senator Jacobsen's commission will be expiring in June, which he has opted not to renew. Verl Jarvie, whose commission also expires in June, was presented with a plaque for his service. Stacey Giomi is the new addition to the Commission. Ms. Kennard went on to state Susan Crowley was recovering from a serious vehicle accident but is recuperating.

V. NEW BUSINESS

A. Local Emergency Planning Committee Updates

Carson City LEPC – Mr. Giomi had nothing to report.

Clark LEPC – Mr. O'Brien advised the Clark LEPC has just completed a tactical interoperable communications plan.

Douglas LEPC – Mr. Mirgon had nothing to report.

Elko LEPC – Mr. Jarvie advised Elko LEPC has a new chairman, Will Johnston, Carlin Fire Chief.

Lander LEPC – Carl Byrd advised the Lander County District Attorney has assigned the Assistant D.A. to assist the LEPC, which has proven very helpful. Bruce Ferrel, SERC staff, attended the March LEPC meeting and gave an overview to new members. Attendance at LEPC meetings has increased. The Lander County Sheriff's Office has given clerical support by mailing agendas and meeting minutes. The Lander LEPC will attempt to have two drills this coming year and will finalize dates within the next week. The LEPC meeting location has been changed to the Commissioner's office, which will allow the Lander LEPC to have telephone conferences with the cities of Austin and Kingston. The Lander LEPC would like more involvement with these two cities and strive to provide them with training and equipment.

Mineral LEPC – Craig Nixon had nothing to report.

Nye LEPC – Brent Jones advised Nye LEPC just finished its second drill in the last year. The new facility for Emergency Management will hopefully be finished this summer. Attendance has been good at LEPC meetings.

Storey LEPC – Joe Curtis advised Storey LEPC has added funding for a part-time emergency management position to its tentative budget. The Storey LEPC continues to move forward.

B. U.S. Environmental Protection Agency Update

Mike Ardito, San Francisco office, presented a newsletter handout and advised EPA submitted its Pandemic Influenza Plan to the White House on March 31. Mr. Ardito advised the annual Pacific Southwest Environmental Progress Report will be on EPA's web site about April 22 – Earth Day 2006. The annual conference for the National Association of SARA Title III Program Officials (NASTTPO) will be held in Little Rock, Arkansas the week of May 15-18, 2006. Mr. Ardito further advised the 20th anniversary of EPCRA will be commemorated on October 17, 2006 at a conference sponsored by Arizona SERC. EPA celebrates its 35th anniversary. The EPA along with the Federal Emergency Management Agency (FEMA) has been working with the Hurricane Katrina aftermath for the past 8 to 9 months. As of early April, over 100 individuals from EPA's Pacific Southwest Region have now worked two or more weeks in Louisiana. Mr. Mirgon mentioned there is funding available for a SERC member to attend the NASTTPO Conference.

C. U.S. Federal Emergency Management Agency Update

Mr. Ardito advised Matt Bradley started in January 2006 as the new FEMA representative. Ms. Kennard advised FEMA sent SERC \$8,000 in training funds to support HazMat Explo¹⁰, which was not in the form of a grant or contract.

D. Occupational Safety and Health Administration Update

Tom Czehowski advised as of April 3, federal OSHA in Washington DC has a new assistant secretary of labor, Ed Balk. Secretary Balk was a practicing attorney and also chairman of the OSHA Review Commission at the federal level.

E. Division of Emergency Management

Frank Siracusa advised the Division of Emergency Management (DEM) will be moving into the new State operation center in late June, early July. The DEM will be sharing offices with the administration of the Division of Forestry, the Homeland Security office, and the Nevada Highway Patrol dispatch for the northern part of the State.

The DEM is also managing the Homeowners Disaster Program, which is an individual assistance program the legislature passed during the last session. Currently, DEM is providing funding to 80 applicants for damage that occurred to their homes as a result of an emergency disaster, particularly the floods during New Year's Eve. Mr. Siracusa stated DEM successfully submitted the State's 2006 application to the Homeland Security for the 2006 Homeland Security grant program. Mr. Siracusa thanked Mr. O'Brien and his office for providing support and assistance to DEM in the assembling of the grant application.

F. Division of Environmental Protection Update

Mr. Porta advised NDEP is in the process of filling two environmental response position vacancies.

G. Nevada State Fire Marshal Update

Chad Hastings stated the State Fire Marshal's Office (SFM) is looking at specific Nevada Revised Statutes (NRS) structure. One section in particular is the area of training. The SFM will address issues of contracts with adjunct instructors, accountability, providing the necessary and adequate training in a timely manner. Mr. Hastings advised the SFM is also working with Ms. Kennard on the new database.

H. Legislative Committee Report

Mr. Mirgon stated the Committee recommends SERC pursue language a BDR to amend existing statutes requiring hazmat training surcharge be provided directly to the SERC for administration. Ms. Kennard advised there was a bill draft proposal in the Commissioners' packets, which would

provide the SERC full authority over the surcharge for hazmat training. Ms. Kennard went on to state the Board of Fire Services (BFS) was interested in pursuing a BDR to ensure fees collected by the Fire Marshal's Office were able to balance forward. It was suggested to present SERC's BDR in conjunction with the BFS BDR. The Legislative Committee recommends to the SERC to pursue this BDR separate from BFS. Ms. Kennard stated Senator Nolan would sponsor the SERC BDR and recommends having it introduced in Committee.

Mr. O'Brien made a motion to proceed with the BDR. Tom Czehowski seconded the motion with was approved unanimously.

I. Strategic Planning Committee Report

Ms. Kennard advised there has not been a meeting.

J. Funding Committee Report

Mr. Brenner advised to move out of order and discuss Section P.

P. Discussion/Action regarding Nye County LEPC's request for variance of quarterly meeting pursuant to SERC Policy 8.3

Ms. Kennard advised policy allows the SERC to consider and make an exemption to the quarterly meeting requirement. The variance was requested due to the fact Nye LEPC wants one of their exercises considered as a meeting. This exercise was not a public meeting therefore, it was not publicly noticed. A discussion ensued.

Larry Farr made a motion SERC deny the variance request. Mr. Farr added a recommendation SERC staff draft a letter to Nye LEPC to advise them of how and when they can come into compliance. Mr. O'Brien seconded the motion which was approved unanimously.

Revisited

J. Funding Committee Report

1. Discussion/Review/Action and approval of fiscal year 2007 SERC grant applications to the SERC from LEPCs

Ms. Kennard advised SERC received applications from all the LEPCs. Based on the revenue projection and expenditures over the last two years, including carrying over a reserve amount of \$400,000, funding the database and the Hazardous Materials Emergency Preparedness (HMEP) match and taking into consideration the HazMat Explo line item is now going over to license plate money, the SERC budget has \$500,000 available. The total grant requests including the operation grant total \$446,000. The Planning and Training Subcommittee and the Funding Committee met and considered the grant applications. After consideration of the Planning and Training Subcommittee recommendations, the Funding Committee made the

following recommendations:

Carson City LEPC – Approval of the grant application; and to forward the membership list to the Bylaws Committee for appropriate action. In addition, Carson City LEPC does not have an elected official on its committee.

Churchill LEPC – Approval of the computer, screen, printer, fax, speaker and radio equipment; Churchill LEPC include the denied items under the United We Stand grant application; and to forward the membership list to the Bylaws Committee for appropriate action. The Churchill LEPC also does not have an elected official as a member on its committee.

Clark LEPC – Approval of the application contingent upon receiving proper signatures and LEPC meeting minutes indicating the LEPC has approved the grant application; and to forward the membership list to the Bylaws Committee for appropriate action. Ms. Kennard advised the meeting minutes have been received. The Commissioner's signature is still needed before Clark LEPC is compliant.

Douglas LEPC – Approval of the grant application; and to forward the membership list to the Bylaws Committee for appropriate action.

Elko LEPC – Approval of the application less the salaries for the Jackpot exercise and the "miscellaneous" items contingent on the report of the last exercise; and to forward the membership list to the Bylaws Committee for appropriate action. It was also recommended the exercise request be awarded from the planning category instead of training. Ms. Kennard advised Elko needs to provide an exercise report and narrative.

Esmeralda LEPC – Approval of the application contingent on proper signatures, awarding exercise money from the planning category; and to forward the membership list to the Bylaws Committee for appropriate action.

Eureka LEPC – Approval of the turbo flares but deny the satellite phones and recommend Eureka submit the satellite phones on the United We Stand grant application; and to forward the membership list to the Bylaws Committee for appropriate action.

Ms. Kennard stated this is similar to Churchill LEPCs' situation. The recommendation would be for these counties to apply to the United We Stand grant. Ms. Kennard advised the United We Stand (UWS) grant application was mailed out April 12 and will be coming for the SERC's approval at the next SERC quarterly meeting.

Humboldt LEPC – Approval of the grant application; and to forward the membership list to the Bylaws Committee for appropriate action.

Lander LEPC – Approval of the application contingent on training provided by the State Fire Marshal's Office, submission of the Affidavit of Publication of EPCRA; and to forward the membership list to the Bylaws Committee for appropriate action.

Lincoln LEPC – Approval of the application contingent on the submission of the Affidavit of Publications of EPCRA, submission of updated bylaws;

and to forward the membership list to the Bylaws Committee for appropriate action.

Lyon LEPC – Application be denied due to the fact it was not submitted in the proper timeline; and forward the membership list to the Bylaws Committee for appropriate action. Glade Myler, Senior Deputy Attorney General, stated SERC has policy in place to give the LEPCs the opportunity to appeal decisions. A discussion ensued. The Lyon LEPC is in compliance other than missing the deadline.

Mineral LEPC – Approval of the application; and to forward the membership list to the Bylaws Committee for appropriate action.

Nye LEPC – Approval of the application less the \$5,000 for painting the school bus, contingent on receiving the quotes for the equipment, proper signatures on the application, submission of an NRT-1 compliant plan for review by the Planning and Training Subcommittee, approval of the SERC for exemption of one quarterly meeting as a meeting was missed in the second quarter; and to forward the membership list to the Bylaws Committee for appropriate action.

Ms. Kennard added quotes are needed for other requested items and Nye LEPC is not in compliance administratively. Ms. Kennard stated the Planning and Training Subcommittee found, when reviewing plans in February, as of last February 2005 the plan was in compliance with NRT-1. The letter received from Brent Jones stated Nye LEPC had a plan but it did not meet their needs. Mr. Jones also stated in his letter Nye LEPC will be revising their plan but the SERC should consider it good for now. The Nye LEPC is currently revising their plan. The Planning and Training Subcommittee made the recommendation the Nye LEPC plan is not in compliance based on the letter from Mr. Jones. Also, the Nye LEPC is noncompliant on the quarterly meeting requirement.

Pershing LEPC – Approval of the application contingent upon submission of an approved plan, meeting minutes, an update of the bylaws; and to forward the membership list to the Bylaws Committee for appropriate action. Notice was sent to Pershing LEPC allowing 45 days to April 17 to obtain compliance.

Storey LEPC – Approval of the application; and to forward the membership list to the Bylaws Committee for appropriate action.

Washoe LEPC – Approval of the application at the amount requested with the exception of the 50 watt mobile VHF radios, which are recommended at the quoted price of \$566.62; and to forward the membership list to the Bylaws Committee for appropriate action.

White Pine LEPC – Approval of the application, adjust the request amount to reflect the actual quotes; and to forward the membership list to the Bylaws Committee for appropriate action.

Mr. Myler advised he attended a Pershing County Commission meeting recently and the LEPC chair is having difficulties getting the commissioners to understand he is overwhelmed with the workload.

Mr. Ferrel advised he met with Pershing County Comptroller/Auditors on March 15. Mr. Ferrel relayed the Pershing County Commission is concerned because the financial end is not being taken care of as it should.

There was a discussion about the grant guidelines regarding contingencies. Mr. O'Brien advised the LEPC Handbook specifies the grant application process. A discussion ensued about the appeal process. Mr. Myler stated due process must be followed and agendaized for the next SERC meeting if Lyon LEPC appeals the decision to deny the application. Mr. Giomi stated if SERC sets criteria, everyone needs to follow the criteria.

Mr. Jarvie made a motion SERC accept the Funding Committee's recommendation with the understanding the LEPCs not in compliance need to complete the contingencies to bring themselves into compliance before the grant is funded. Mr. O'Brien seconded the motion. The motion was passed. Doyle Sutton opposed.

2. Discussion of fiscal year 2006 Hazardous Materials Emergency Preparedness (HMEP) "mid-cycle" grant applications from Lyon and Storey LEPCs

Mr. Brenner advised Lyon LEPC requested \$5,500 and Storey LEPC requested \$8,500 in mid-cycle HMEP applications. Ms. Kennard stated this is not an action item. After discussion it was determined Lyon LEPC's request was for permanent equipment items which is not appropriate from this federal grant. The amount available, \$6,600, was awarded to Storey LEPC for continuation of their planning project already awarded by the SERC. Recommendation for the Lyon LEPC is to request equipment items out of the UWS license plate funding.

K. Bylaws Committee Report

A short meeting due to time constraints between Planning and Training Subcommittee, and Funding Committee meetings was held on April 6. Mr. Farr will call another meeting to review the membership lists and bylaws for the LEPCs. Letters will be sent to those LEPCs lacking in certain membership categories.

L. Information Technology Committee Report

Mr. Mirgon advised the Committee has not met; however, progress has been made on the new computer system. Ms. Kennard advised SERC has received Department of Information Technology (DoIT) approval on the request for purchase of the database. SERC staff also requested and received the Purchasing Division's approval on the sole-source request. The contract has been prepared and is being reviewed by the vendor. Request for approval of the contract should be on the June Board of Examiners (BOE) agenda. The infrastructure hardware to be purchased through the Department of Public

Safety Information Technology Bureau has been ordered. Ms. Kennard anticipates some allocation savings from the current information technology category in the budget, which will be used to purchase the backup server. SERC staff have been processing facility refunds to those facilities who have overpaid before the conversion to the new database. The anticipated time for the vendor to be ready and begin the testing is October/November.

M. Policy Committee Report

Mr. O'Brien advised the Committee has not met; therefore, there is no report.

N. Presentation by Terry Savage, Director of the Department of Information Technology, regarding the Interoperability Plan prepared by the Nevada Communication Steering Committee

Terry Savage talked about first responders not being able to communicate with each other. In 2002 DoIT created the Nevada Communications Steering Committee (NCSC) to address the interoperability and develop a communications plan. The NCSC is an advisory group to the HS Commission. Mr. Savage made a presentation of the plan and its requirements for equipment purchases as adopted by the Homeland Security Commission. A discussion ensued.

O. Discussion/Action regarding possible SERC policy for radio purchase with grant funds according to the Interoperability Plan prepared by the Nevada Communication Steering Committee

Discussion ensued regarding the requirement of compliance with the Interoperability Plan and the need to develop SERC policy. Mr. Myler recommended the SERC adopt policy in compliance with the plan. This item was referred to the Policy Committee. Mr. Mirgon directed staff to send notice to the grantees advising them of the plan requirements.

P. Discussed earlier in the meeting

Q. Discussion/Action on proposed letter from SERC to county district attorneys regarding LEPC compliance with open meeting laws

Ms. Kennard stated many of the district attorneys are not aware of the Emergency Preparedness Community Right-to-Know Act (EPCRA), LEPCs, or SERC, and the compliance that is necessary. SERC staff receive agendas and meeting minutes that would not appear to be in compliance with the open meeting law. A draft letter, approved by Mr. Myler and the Governor's office, is included in the handouts. Mr. O'Brien suggested an open meeting law workshop at the HazMat Expo¹⁰. Mr. Myler also suggested having someone speak at the Civil Attorneys Conference in May 2006.

Mr. Farr made a motion to have SERC staff send the letter that has been

approved by SERC's attorney and the Governor's Office to all district attorneys. Mr. Czehowski seconded the motion which was approved unanimously.

R. Discussion/Action regarding SERC budget performance indicators

Mr. O'Brien made a motion the SERC adopt the budget performance indicators as presented by the staff. Mr. Farr seconded the motion which was approved unanimously.

S. Executive Director Report

1. Update on hazardous materials database application

This item was discussed under Item L, Information Technology Committee report.

2. Update on Nevada Administrative Codes (NACs)

Ms. Kennard advised the workshop and public hearings were held just prior to this SERC meeting. There was only one comment from Carson City regarding requirements for reimbursement, and the timing of submission of financial reports quarterly and 45 days after the end of the grant period. The change was accepted and will be incorporated into the proposed NACs. The SERC meeting for the adoption of the NACs will be May 11.

3. Update on license plate funding

As of March 31, \$521,000 has been collected (before interest has been applied for this last quarter) from the sale of UWS license plates. An abbreviated form of the application has been sent out and there will be Planning and Training and Funding Committee meetings within this next quarter with final approval at the next SERC quarterly meeting. SERC is asking for a volunteer for the Funding Committee since Mr. Jarvie is leaving. Mr. Giomi volunteered.

4. Update on Illinois lawsuit

Ms. Kennard stated the Illinois lawsuit is in settlement conference phase.

5. Update on HMEP application

Ms. Kennard advised the HMEP application approved by the SERC at its last meeting was submitted with no changes. The federal grant award is expected in August or September.

6. Notification of the receipt of training funds from FEMA

This item was addressed under Item C.

The HazMat Explo¹⁰ planning committee is continuing the coordination of the conference. There has been great input from the new contractor. Mr. Ardito at EPA has been helpful in submitting names for speakers and new classes. There is also a separate Homeland Security tract being added this year.

The copyright for the Fire Pal CD has been received and copies of the CD will be made and distributed.

Ms. Kennard advised she attended the Arizona SERC meeting in March. Items of interest are structure for the SERC. Five core state agencies are voting members of their SERC and other agencies are an advisory committee. The Arizona SERC has the same difficulties with LEPC compliance. A LEPC workshop was held and half of the LEPCs attended. The workshop provided the same technical assistance SERC staff have been doing by telephone or visiting LEPCs. Ms. Kennard further advised the Arizona SERC has just begun reviewing LEPC hazmat plans. They are also reviewing all facility plans.

Ms. Kennard advised she received an e-mail from Steve Cochrane, Humboldt LEPC vice-chair. He requested SERC's input to having regional response teams who are supported by the paid fire departments throughout the State. Mr. Myler advised this is being developed through DEM with the establishment of the Nevada Emergency Management Assistance Compact (NEMAC). Mr. O'Brien suggested a workshop on NEMAC at the HazMat Expo¹⁰.

Ms. Kennard brought to the SERC's attention the February Community Right-To-Know publication. There is an article which concerns the lack of EPCRA requirement to conduct annual exercises which the SERC addressed in the January 2006 meeting. The article focuses on the Nevada SERC and what it did to bring this matter to light.

Ms. Kennard gave a reminder the next SERC meeting for adoption of the NACs is May 11 and the next SERC quarterly meeting will be July 13.

VI. ADJOURNMENT

Mr. O'Brien made a motion to adjourn at 11:55 a.m.